

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO QUARANTINE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the silent invasion  
2 of Hawaii by insects, disease-bearing organisms, snakes, weeds,  
3 and other pests is one of the single greatest threats to  
4 Hawaii's economy and natural environment and to the health and  
5 lifestyle of Hawaii's people. Invasive species already cause  
6 millions of dollars in crop losses, the extinction of native  
7 species, the destruction of native forests, and the spread of  
8 disease. Stopping the influx of new invasive species is  
9 essential to Hawaii's future well-being.

10           One important pathway by which dangerous species, such as  
11 snakes, piranha, and large cats, are introduced to Hawaii is via  
12 intentional smuggling of prohibited animals. The State  
13 currently lacks the enforcement authorities necessary to prevent  
14 these violations of law.

15           SECTION 2. Chapter 150A, Hawaii Revised Statutes, is  
16 amended by adding five new sections to be appropriately  
17 designated and to read as follows:



1        **§150A-A Quarantine enforcement program.** There is  
 2 established a quarantine enforcement program to enforce the  
 3 provisions of chapter 150A. The department shall appoint and  
 4 provide a badge or insignia of office to the following:

5        (1) A quarantine enforcement section chief who shall be  
 6 head of the quarantine enforcement program and shall  
 7 administer all matters relating to the enforcement of  
 8 this chapter, related rules adopted by the department  
 9 pursuant to chapter 91, and such other matters the  
 10 board may direct from time to time; and

11       (2) Personnel and enforcement officers of the quarantine  
 12 enforcement program, including but not limited to  
 13 unpaid voluntary enforcement officers.

14       **§150A-B Board of agriculture; chairperson; delegation of**  
 15 **authority.** The board or chairperson may delegate to enforcement  
 16 officers within the quarantine enforcement program, such  
 17 authority as may be required for enforcement of the state  
 18 quarantine laws and rules.

19       **§150A-C Quarantine enforcement officers, duties; other law**  
 20 **enforcement officers.** (a) The quarantine enforcement officers,  
 21 with respect to any land, building, vessel, or aircraft shall:



1        (1) Enforce this chapter with respect to any commodity.

2                "Commodity" includes any animal, plant, or  
3                microorganism in any stage of development that is  
4                regulated by this chapter;

5        (2) Investigate complaints, gather evidence, conduct  
6                investigations, and conduct field observations and  
7                inspections as required or assigned;

8        (3) Cooperate with enforcement authorities of the State,  
9                counties, and federal government in the development of  
10               programs and mutual agreements for quarantine  
11               enforcement activities in the State;

12       (4) Inspect and verify at reasonable hours without  
13               warrant, any permits and licenses issued by the  
14               department, related required records and documents,  
15               and any commodities related to the permits or  
16               licenses;

17       (5) Enforce the laws relating to firearms, ammunition, and  
18               dangerous weapons contained in chapter 134; and

19       (6) Carry out such other duties and responsibilities as  
20               the board or chairperson from time to time may direct.

21       (b) Every state and county officer charged with the  
22       enforcement of laws and ordinances may enforce and assist in the



1 enforcement of this chapter and related rules adopted by the  
2 department.

3 (c) The department may also authorize federal enforcement  
4 authorities under memorandum of agreement to enforce and assist  
5 in the enforcement of this chapter and related rules adopted by  
6 the department.

7 **§150A-D Board of agriculture, chairperson; police powers.**

8 (a) The board or chairperson shall have police powers and may  
9 appoint and commission enforcement officers within the  
10 quarantine enforcement program of the department. Persons  
11 appointed and commissioned under this section shall have and may  
12 exercise all of the powers and authority of police officers,  
13 including the power of arrest, and shall enforce all state laws  
14 and rules, and county ordinances within the State; provided that  
15 such powers shall remain in force and effect only while in  
16 actual performance of their duties, which shall include off-duty  
17 employment when such employment is for other state departments  
18 or agencies. These enforcement officers shall consist of  
19 personnel whose primary duty will be the enforcement of this  
20 chapter and related rules adopted by the department.



1        (b) An enforcement officer, upon arresting any person for  
2 violation of this chapter and related rules adopted by the  
3 department, may:

4        (1) Immediately take the person arrested to a police  
5 station or before a district judge; or

6        (2) Record the name and address of the person, note the  
7 violation of the law or rules alleged to be committed  
8 by the person and issue a summons or citation, printed  
9 in the form described in section 150A-12, notifying  
10 the person to appear and answer the charge against the  
11 person at a certain place and at a time within seven  
12 days after the citation or arrest. Any person failing  
13 to obey a summons issued pursuant to this section  
14 shall be subject to penalty pursuant to section 150A-  
15 15.

16        **§150A-E Search and seizure; forfeiture of property.** (a)

17 Any police officer or agent of the department upon whom the  
18 board of agriculture or chairperson has conferred powers of  
19 police officers, shall have the authority to conduct searches on  
20 probable cause as provided for in this chapter or by other law  
21 and to seize, capture, confiscate, and remove:

22        (1) Any commodity that is:



1           (A) Prohibited or restricted and without a permit; or  
2           (B) Otherwise in violation of this chapter or any  
3           related rules adopted by the department; and

4       (2) Any equipment, article, instrument, aircraft, vehicle,  
5       vessel, or records used in violation of the provisions  
6       of this chapter and any related rules adopted by the  
7       department.

8       (b) Any prohibited commodity or other commodity in  
9       violation of this chapter shall be forfeited upon seizure.

10       Notwithstanding any other law to the contrary, or other civil or  
11       criminal sanctions, any commodity seized may be immediately sent  
12       out of the State at the owner's expense, donated to a  
13       government-affiliated aquarium or municipal zoo, destroyed, or  
14       disposed of as determined by the department.

15       (c) Any equipment, article, instrument, aircraft, vehicle,  
16       vessel, business records, or prohibited or restricted commodity  
17       without a permit that is seized under this chapter is subject to  
18       forfeiture pursuant to chapter 712A. Unless otherwise directed  
19       by the court pursuant to chapter 712A, any item, other than a  
20       commodity, that is seized shall be forfeited to the State for  
21       disposition as determined by the department, destroyed, or  
22       retained and utilized by the department or other state agency.

1 If not needed or required by the department or other state  
2 agency, the forfeited items shall be disposed of as provided by  
3 chapter 712A."

4 SECTION 3. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ , or so  
6 much thereof as may be necessary for fiscal year 2006-2007, for  
7 the quarantine enforcement program, including the hiring of a  
8 quarantine enforcement section chief and two staff persons.

9 SECTION 4. The sum appropriated shall be expended by the  
10 department of agriculture for the purposes of this Act.

11 SECTION 5. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval;  
13 provided that section 3 of this Act shall take effect on July 1,  
14 2006.

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INTRODUCED BY: Russell Kohb B/R

**SB. NO. 2981**

**Report Title:**

Agriculture; Plant and Non-Domestic Animal Quarantine

**Description:**

Establishes a quarantine enforcement program in the Department of Agriculture to enforce laws relating to the importation of plant and non-domestic animals.

